STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of IAN GRIMSLEY and JOSIE GRIMSLEY, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

APRIL L. GRIMSLEY,

Respondent-Appellant.

UNPUBLISHED
April 6, 2006

No. 265136
Genesee Circuit Court
Family Division
LC No. 03-116511-NA

Before: Smolenski, PJ, and Owens and Donofrio, JJ.

PER CURIAM.

Respondent appeals as of right from the order terminating her parental rights pursuant to MCL 712A.19b(3)(a)(ii), (b)(i), (b)(ii), (g), (j), and (k)(i). We affirm.

Respondent first contends that petitioner did not make reasonable accommodations for her psychiatric disabilities. Because respondent failed to assert the need for accommodation at the time the service plan was adopted, this argument is not preserved for appellate review. *In re Terry*, 240 Mich App 14, 26 n 5; 610 NW2d 563 (2000). Even if respondent had timely raised this issue, the record before this Court does not support respondent's claim. Respondent was offered mental health services, parenting skills training, and a domestic violence program. Respondent did not participate in these services because she moved to Indiana. Respondent argues that petitioner did nothing in this case, other than attempting to enter into an interstate compact agreement. Testimony revealed that Elizabeth Montemayor, the foster care specialist, contacted the Dunn Center in Indiana to see if respondent could receive the above services. Respondent attended anger management and parenting classes at the Dunn Center. However, respondent stopped attending therapy sessions, absented herself from the social worker, and her whereabouts became unknown to the social worker at the center. Therefore, respondent's argument is without merit.

The trial court also did not clearly err in determining that statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Trejo,* 462 Mich 341, 355; 612 NW2d 407 (2000). Respondent argues that there was no showing that she deserted or abandoned her children. Respondent acknowledges that there was testimony that she did not return to Michigan to seek custody of her children. She

asserts that the trial court suspended visitation, thus preventing her from contacting her children. Respondent failed to provide any authority to support her position that MCL 712A.19b(3)(a)(ii) and (k)(i) require a showing of voluntary desertion or abandonment and thus has abandoned this issue. *Consumers Power Co v Public Service Comm'n*, 181 Mich App 261, 268; 448 NW2d 806 (1989). None the less, considering respondent's argument, testimony revealed that the last time respondent saw her children was at two unauthorized visits in July and August 2003. Although the trial court subsequently suspended respondent's visitation, it suspended visitation until she made contact with FIA. It was respondent's failure to contact FIA and participate in the services offered that resulted in her inability to visit her children. Based on the above evidence, we find that respondent deserted her children for more than 91 days and that, by not complying with the service plan and returning to Michigan, she failed to take steps to gain custody of her children.

Because respondent failed to regularly visit and contact her children, respondent failed to contact FIA and advise where she was living at the time of the termination hearing, and respondent failed to demonstrate that she could provide for her children, the trial court did not clearly err in terminating her parental rights under MCL 712A.19b(3)(g). In addition, respondent's failure to participate in services to address her mental health issues and her failure to attend a domestic violence program, support a finding that there was a reasonable likelihood that the children would be harmed if returned to her care, MCL 712A.19b(3)(j).[1]

Finally, the evidence did not show that the children's best interests precluded termination of respondent's parental rights. MCL 712A.19(5); *In re Trejo, supra* at 356-357. Although respondent loved her children, the record evidence established that these children needed a stable and nurturing home, which respondent was not able to provide. Thus, the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Michael R. Smolenski
/s/ Donald S. Owens
/s/ Pat M. Donofrio

[1] No testimony was presented demonstrating that the children would suffer further sexual abuse if placed in respondent's care, and therefore the trial court erred in finding that MCL 712A.19b(3)(b)(i) and (b)(ii) was established. However, because only one statutory ground is required in order to terminate parental rights, this error does not require reversal. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).